

422 17 596

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of)	
)	
Implementation of the Cable)	
Television Consumer)	MM Docket No. 92-260
Protection and Competition)	
Act of 1992)	
)	
Cable Home Wiring)	
)	DOCKET FILE COPY ORIGINAL
Telecommunications Services)	CS Docket No. 95-184
Inside Wiring)	
)	
Customer Premises Equipment)	

To: The Commission

Reply Comments of Armstrong Holdings, Inc.

Armstrong Holdings, Inc. ("Armstrong"), and its affiliated entities, hereby submits its reply comments in the above-captioned proceedings.^{1/} Armstrong is a closely-held, family-owned business that has operated cable television systems since 1960. Currently, Armstrong serves approximately 192,000 subscribers in 209 cable television franchise areas located in Pennsylvania, Ohio, West Virginia, Maryland, and Kentucky. Armstrong's cable subscribers receive between 36 and 42 channels of programming delivered via state-of-the-art technology which,

^{1/} First Order on Reconsideration and Further Notice of Proposed Rulemaking, MM Docket 92-260, FCC 95-503, Released January 26, 1996 ("Order" and "FNPRM"); Notice of Proposed Rulemaking, CS Docket No. 95-184, FCC 95-504, Released January 26, 1996 ("NPRM").

for the most part, Armstrong has internally financed, constructed, and continually upgraded over a period of thirty years.

In addition to cable service, Armstrong presently offers other non-video services such as its "Guardian Security" system and Digital Music Express ("DMX") to its cable television subscribers.^{2/} Armstrong seeks clarification that cable operators, continuing to serve customers with these types of services, will not be subject to the FCC's amended inside wiring rules for voluntary termination of cable service. Otherwise, Armstrong would effectively be barred from offering these services to existing and future subscribers. Second, Armstrong adds its support to the parties that submitted comments in these proceedings advocating facilities based competition, rather than shared use of wires. Finally, Armstrong emphasizes the technical problems embedded in the FCC's proposed shared-use of inside wiring.

I. The FCC's Amended Rules for Voluntary Termination of Service Should Not Apply to Cable Operators Continuing to Offer Additional Services Over its Networks.

Armstrong seeks clarification that the FCC did not intend to require cable operators, continuing to offer additional non-video services to subscribers via its broadband networks, to be subject to the FCC inside wiring rules for voluntary termination of

^{2/} While not all of these services are provided on the existing networks, Armstrong contemplates such activity in the future and also expects to provide data and telephony via its networks.

service. This unique situation was not discussed in the FCC's Order, nor was it addressed in the comments submitted to the FCC in the FNPRM.

When a subscriber elects to terminate cable service,^{3/} the FCC requires the cable operator to conduct a scripted telephone conversation concerning the ownership of the home wiring and its replacement cost.^{4/} At the subscriber's choice, the cable operator must either sell its wiring, or remove it from the premises within seven days.^{5/} If the cable operator fails to adhere to these procedures, it immediately loses all rights to its wiring.^{6/}

In addition to basic service, at present, Armstrong offers its customers the "Guardian Security" system and Digital Music Express (DMX). Under the FCC's rules, if a customer requests termination of cable service, Armstrong would be required to sell its wiring to the customer, or remove it within seven days, even if the subscriber wishes to continue receiving one or both of these additional services. Ironically, the FCC would be requiring Armstrong to remove its wiring which would be needed to provide other non-video services to its subscribers. This

^{3/} Armstrong presumes that the term "service" used throughout the FCC's Order refers to cable video service. See, eq. Order at ¶ 18.

^{4/} Order at ¶ 18.

^{5/} Id. at ¶ 21.

^{6/} Id.

clearly could not have been the FCC's intended result when drafting its regulations.

The FCC stated that these requirements stem from its concern that a cable operator would misrepresent its intentions to remove the wiring, or would discriminate against subscribers terminating cable service.^{7/} Neither of these problems is present in Armstrong's situation.^{8/}

The FCC's Order, however, does not account for this scenario. Unless the FCC exempts cable operators continuing to offer additional services, such as DMX, security, and data from the voluntary termination procedures, cable operators will be prohibited from offering additional services, now, and in the future. A cable operator's only alternative would be to rewire the subscriber's premises at additional and unnecessary expenses. Thus, Armstrong hereby requests that the FCC clarify that under these specific circumstances (the provision of other service over the network), cable operators are not required to comply with the rules for voluntary termination of service.

II. The FCC Should Advocate Facilities Based Competition, Not Shared-Use of Wires

Armstrong supports facilities-based competition in MDUs, as contemplated in the Telecommunications Act of 1996 ("Telecom Act

^{7/} Id. at ¶ 23.

^{8/} As discussed below, one solution to this problem is for the FCC to advocate facilities based competition, rather than shared use of wiring.

of 1996").^{9/} In an effort to harmonize the telephone and cable inside wiring rules, the FCC proposes to move the cable demarcation point in MDUs to a common area such as a basement or on individual floor lockbox, thus, giving competitive service providers and subscribers access to the cable operator's lockboxes and inside wiring.^{10/} This proposal will encourage multiple service providers to share a single wire, rather than invest in building additional distribution systems.

A. Shared Use of Wiring Is Contrary to the Competition Goals of the Telecom Act of 1996.

Advocating shared-use of inside wiring contradicts the effective competition goals of the Telecom Act of 1996. The Telecom Act of 1996 envisions multiple service providers offering advanced telecommunication services to customers. Proposing that telcos and competitive service providers share the incumbent's inside wiring contradicts that very goal. It effectively shuts out competition between service providers.

Cable operators, such as Armstrong, should not only be allowed, but should be encouraged to continue offering additional broadband and narrowband services, when the customer elects to receive cable service from a competitive service provider. This could not happen under the proposals for shared-use of the cable

^{9/} See, Comments of the Cable Television Association at pp. 3-8 and Comments of the National Cable Television Association at pp. 6-12.

^{10/} NPRM at ¶ 12. Currently the demarcation point is twelve inches outside of the customer's premises.

operator's inside wiring. As proposed, a subscriber only has the ability to select a single provider for all of its services. This should not be the case; the customer should have the freedom to select one provider for cable, and another for additional broadband and narrowband services. This freedom of selection is at the heart of achieving true competition.

B. Shared-Use of the Cable Operator's Wires May Create Needless Technical Problems.

Aside from its impracticality, giving multiple service providers and subscribers unregulated access to lockboxes creates a potential for technical problems, including loss of signal quality and additional signal leakage.

Under the FCC's proposals, cable operators will be forced to give up supervision and control over unauthorized tinkering with its lockboxes. If subscribers attempt to rearrange or tamper with the wiring, there is a very good possibility that the quality of the signal will be jeopardized. More seriously, any accidental cutting of the wires will potentially lead to critical levels of signal leakage.

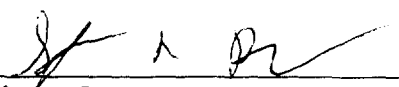
Cable operators have implemented specific procedures to ensure the quality of its cable signal and prevent signal leakage. If subscribers, building owners, and competitive service providers are given free rein of the lockbox, none of the cable operator's procedures would be safeguarded. Thus, the only practical solution is to advance the use of multiple wires in

customers' premises, thereby achieving true competition for services and service providers, and avoiding these concerns.

Conclusion

For the reasons stated herein, Armstrong requests that the FCC clarify that cable operators continuing to offer non-video services over its networks are not subject to the voluntary termination procedures. Armstrong also opposes moving the demarcation point in MDUs, allowing access to the cable operator's lockboxes and inside wiring. Finally, Armstrong supports facilities based competition to achieve the goals of the Telecom Act of 1996.

Respectfully submitted,
ARMSTRONG HOLDINGS, INC.



Stephen R. Ross
Amy Brett

Attorneys for
Armstrong Holdings, Inc.

ROSS & HARDIES
888 16th Street, N.W.
Suite 400
Washington, D.C. 20006
(202) 296-8600

April 17, 1996

CERTIFICATE OF SERVICE

I, Diane Graham, a secretary in the law offices of ROSS & HARDIES, caused to be served via first class mail, postage prepaid this 17th day of April, 1996, copies of the foregoing "Reply Comments of Armstrong Holdings, Inc." on the following:

Chairman Reed E. Hundt*
Federal Communications
Commission
Room 814
1919 M Street, NW
Washington, DC 20554

Commissioner James H. Quello*
Federal Communications
Commission
Room 802
1919 M Street, NW
Washington, DC 20554

Commissioner Rachelle B.
Chong*
Federal Communications
Commission
Room 844
1919 M Street, NW
Washington, DC 20554

Commissioner Susan P. Ness*
Federal Communications
Commission
Room 832
1919 M Street, NW
Washington, DC 20554

Meredith Jones*
Chief, Cable Services Bureau
Federal Communications
Commission
Room 918
2033 M Street, NW
Washington, DC 20554

Stephen R. Effros, Esq.
Cable Telecommunications
Association
3950 Chain Bridge Road
Fairfax, VA 22030-1005

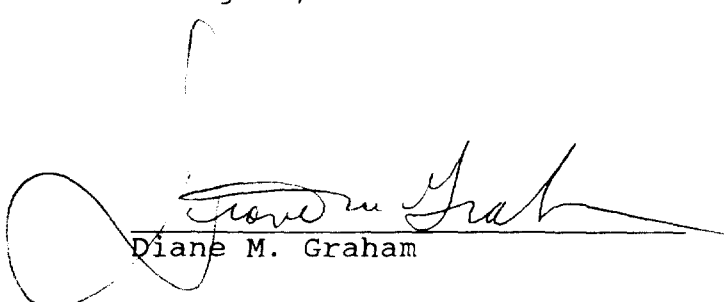
William Johnson*
Federal Communications
Commission
9th Floor
2033 M Street, NW
Washington, DC 20554

Daniel Brenner, Esq.
National Cable Television Assn
1724 Massachusetts Ave., NW
Washington, DC 20036

Lynn Crakes, Esq.*
Cable Services Bureau
2033 M Street, NW
Room 700N
Washington, DC 20554

Rick Chessen, Esq.*
Cable Services Bureau
Federal Communications
Commission
Room 399
2033 M Street, NW
Washington, DC 20554

International Transcription
Services, Inc.*
Room 246
1919 M Street, NW
Washington, DC 20554



Diane M. Graham

* Hand Delivery